

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

**CASTO LAND, INC.;  
UNIVERSAL HOLDINGS, LLC;  
CLIFFORD SMITH and STEPHANIE  
SMITH; and JIMMIE L. LAPSLEY,**

**Plaintiffs,**

**v.**

**Case No.: 3:24-cv-00296**

**CITY OF HUNTINGTON, WEST VIRGINIA;  
STEVE WILLIAMS; KATHY BURKS; and  
SHERRY WILKINS,**

**Defendants.**

**MEMORANDUM OPINION AND ORDER**

Pending before the Court is Plaintiffs' First Motion to Amend Complaint, which is unopposed. (ECF No. 45). Pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, the Court should freely grant a party leave to amend a pleading when justice so requires. Fed. R. Civ. P. 15(a)(2). Plaintiffs indicate that the proposed Second Amended Complaint streamlines and clarifies their claims. (ECF No. 45). The Court **GRANTS** the motion, (ECF No. 45), and **ORDERS** the Clerk to file the attached Second Amended Complaint, (ECF No. 45-1), in the docket.

The Court notes that the Second Amended Complaint supersedes the prior pleading. Therefore, the Court **DENIES** as moot the pending motions to dismiss, motion to file a surreply, motions for summary judgment, and motion to withdraw. (ECF Nos. 5, 9, 18, 37, 38, 40). *See, e.g., Deutsch v. IEC Grp., Inc.*, No. 3:23-CV-00436, 2024 WL

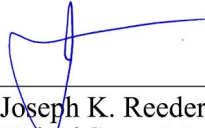
1008534, at \*2 (S.D.W. Va. Mar. 8, 2024); *Viking Energy Corp. v. Certain Underwriters at Lloyd's London*, No. 2:24-CV-00126, 2024 WL 2892330, at \*1 (S.D.W. Va. June 10, 2024).

Also pending is Plaintiffs' unopposed Motion to Modify the Scheduling Order. (ECF No. 46). Although the motions to dismiss are no longer at issue, Plaintiffs further represent that they have delayed pursuing discovery and are engaged in settlement negotiations which would result in dismissal of the only federal claim at issue and divest the Court of original jurisdiction. (*Id.*). Plaintiffs suggested that the Court consider delaying ruling on the motions to dismiss pending possible settlement. (*Id.* at 3 n.3). They expect to know by the end of this month whether a settlement agreement will be presented to the Court for approval. (*Id.* at 2 n.1). The Court **GRANTS** the motion, (ECF No. 46); stays the deadlines in the scheduling order; and **DENIES** as moot the pending discovery motion, (ECF No. 44). A new scheduling order will be entered separately.

The Clerk is instructed to provide a copy of this Order to counsel of record.

**ENTERED:** January 29, 2025



  
\_\_\_\_\_  
Joseph K. Reeder  
United States Magistrate Judge